

1230 Peachtree Street, NE, 19th Floor, Atlanta, GA 30309

P> 404.942.3491

F> 404.942.3495

Covad Communications Co.**Fax**

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02-00207

To: Shirley Frierson**From:** Jayna Bell (404-942-3491)**Fax:** 615-741-7491**Pages:** 4 (including cover page)**Phone:** 615-741-2001**Date:** 12/5/2002**Re:** Enclosures to Letter to Chairman Kyle**CC:**

☒ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

• Comments:

Shirley,

Bill Weber asked me to forward to you, the three enclosures to the letter that Mr. Weber recently sent to Chairman Kyle. The three enclosures were as follows:

- Letter to the FCC from Chairman Jaber of the Florida PSC dated 10/17/2002
- Handout titled "Linesharing's Success in Boosting Broadband Deployment"
- Letter to the FCC from NARUC

I have attached the first two enclosures to this cover sheet. I have not been able to get a copy of NARUC's letter to the FCC due to the winter storm in Washington, DC. The gentlemen that has this letter is snowbound at home and cannot get to his office to send me a copy. As soon as I do receive the letter, I'll forward a copy to you for Chairman Kyle.

Please accept our apologies for omitting these enclosures from the original letter. Thank you and please feel free to call me if you have any questions.

Jayna**RECEIVED**

DEC 05 2002

SARA KYLE, COMMISSIONER
TN PUBLIC SERVICE COMM.**COVAD**

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LILA A. JABER
CHAIRMAN

STATE OF FLORIDA



CAPITAL CIRCLE OFFICE CENTER
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
(850) 413-6044

Public Service Commission

October 17, 2002

The Honorable Alcee L. Hastings
United States House of Representatives
2235 Rayburn House Office Building
Washington, D.C. 20515-0923

Re: Unbundled Network Elements and the Impact on Competitive Alternatives

Dear Representative Hastings:

Of late there has been a great deal of attention focused on the impact of the pricing and availability of Unbundled Network Elements (UNE) on telecommunications competition. While the Florida Public Service Commission (FPSC) laments the financial distress that has befallen the entire telecommunications industry, we believe it must be viewed in a much broader context than simply the pricing of Unbundled Network Elements. We agree with Congress that it is important to address the wholesale pricing issue in a manner that sends the proper price incentives to encourage competition and further investment in the telecommunications sector. However, the FPSC believes state commissions are best positioned to develop regulatory policy at the state level that can promote facilities-based competition as envisioned by the 1996 Telecommunications Act.

In 1996 the Congress, with input from the telecommunications industry and many other stakeholders, including state public utility commissions, passed perhaps the most comprehensive telecommunications legislation in history. The Telecommunications Act of 1996 (the Act) was supposed to mark the beginning of a new, competitive age in telecommunications. As part of the Act, incumbent local exchange companies (ILECs) were required to provide unbundled access of those portions of their networks that were necessary to provide alternative providers the ability to offer service without having to have in place an entirely separate network. The Act touched off a flurry of investment, regulatory initiatives and legal maneuvering. Now in 2002 we are seeing the impacts of those investments, initiatives, and legalities. Much of the regulatory activity and legal clarification has been completed or is nearing completion and a degree of calm and certainty in those areas is settling in. Among those regulatory initiatives is the identification and pricing of UNEs which many states across the country have established and some have already fine tuned initial decisions. The process of establishing the proper elements and pricing is ongoing.

The Honorable Alcee L. Hastings
October 17, 2002
Page Two

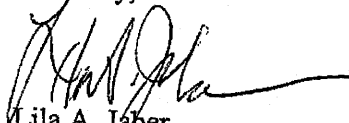
In the long term, facilities-based competition is the best way to provide maximum benefit to consumers. However, we recognize and we hope others recognize, that in order to spur long term investment and commitment it is necessary to provide a stable, reasonably predictable legal and regulatory framework under which investors and service providers can operate with confidence. We believe that it is premature to conclude that UNE and UNE-P pricing is flawed and that it is the sole reason for diminishing investment in the current financial environment. Adding more regulatory change and uncertainty will most certainly serve to further restrict investment.

The FPSC has recently completed its Section 271 proceeding on BellSouth's entry into interLATA (or long distance) competition. In addition, the FPSC, in the last thirty days has completed UNE pricing dockets for BellSouth and Verizon and has yet to implement UNE rates for Sprint. These proceedings entailed a detailed review, evidentiary proceedings, and a large expenditure of staff and Commission time. The UNEs are a method of entry into the market that should not, at this time, be undermined. There could be unintended consequences to altering the regulatory framework that has yet to be fully implemented.

In addition, the FPSC has created an Office of Market Monitoring and Strategic Analysis. This enables state commission monitoring of developments in the competitive marketplace. Thus, we are developing ways, at the state level, to survey the markets. The marketplace must be given time to react and adjust to the current regulatory and legal framework. Then, after a thorough review of the telecommunications market development, it may be appropriate for states to revisit not only UNE availability but costing and pricing methodologies, as well. However, it must come only after a thorough evidentiary process that fully examines the evolution of the market in individual states. States are best positioned to determine which UNEs, if any, should be deleted, and which UNEs, if any, should be added and what costing and pricing methodologies are appropriate. A one-size-fits-all approach may not be feasible. Therefore, until sufficient time is allowed for the market to mature, Congressional action on this matter is premature.

We encourage both Congress and the FCC to stay the course and, by all means, to permit the marketplace time to mature.

Sincerely,



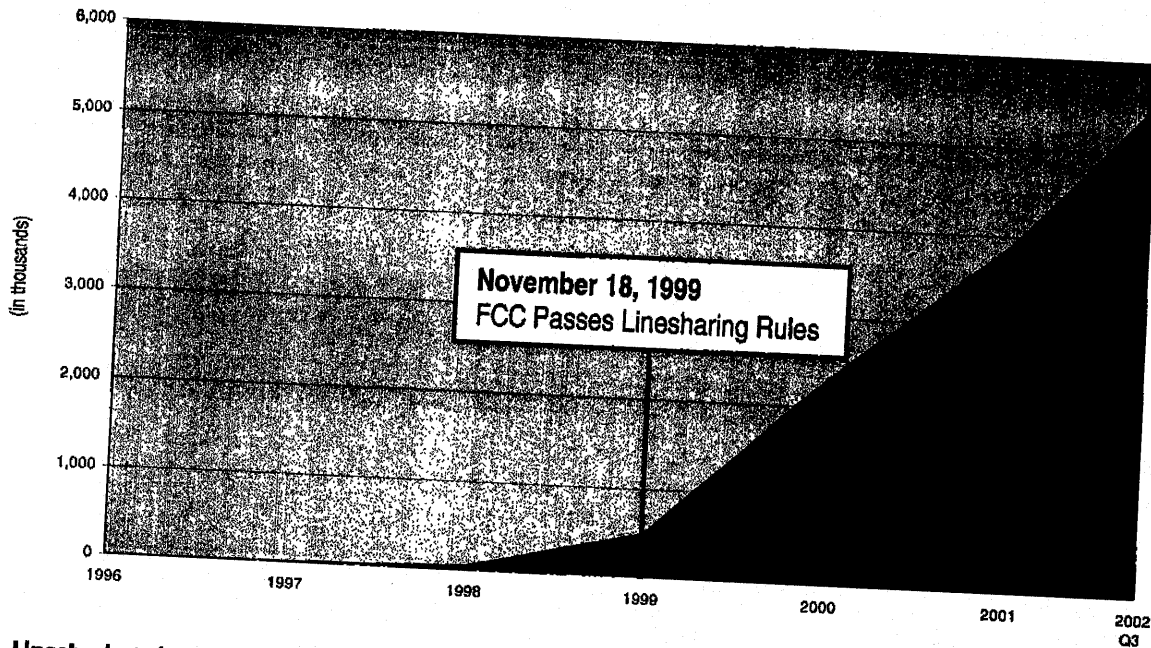
Lila A. Jaber
Chairman

LAJ:gs:tf

cc: Brad Ramsay, NARUC
Jessica Zufolo, NARUC

Linesharing's Success in Boosting Broadband Deployment

DSL Lines in Service in the United States¹



Linesharing gives consumers a choice of providers for affordable broadband services. Linesharing allows all providers—phone companies and competitors alike—to deploy ADSL on the same line a customer users for regular phone service. If linesharing were eliminated, the Bell companies could lock other providers out of their “last-mile” bottleneck facilities, harming competition and hurting consumers.

DSL deployment has exploded since the FCC passed its linesharing rules in 1999. Prior to 1999—despite the fact that DSL technology had been developed a decade before and cable modem deployment had begun four years earlier—the ILECs were deploying DSL at a snail’s pace. Once the FCC passed its linesharing rules, DSL deployment expanded rapidly, giving more consumers access to a choice of broadband services.

Not just faster deployment, also lower prices. Incredibly, before the linesharing rules were adopted, Verizon’s retail DSL services were priced at \$69.95 per month—even in the face of “competition” from cable modem providers. Only after Covad introduced the nation’s lowest-priced DSL product were providers like Verizon and SBC forced to lower their prices to compete.

The Telecommunications Act of 1996 is working. There is no question that the introduction of competition—protected by the FCC’s linesharing rules—has been and continues to be the most important force driving broadband deployment. Protecting consumers and fostering innovation by maintaining the currently successful regulatory structure should be one of the FCC’s top priorities.

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¹ Sources: 1996-2001 – FCC 2002 – ILEC and Covad Press Releases